

Subject: Re: Non-Metropolitan Local Consultation Policy

From: Jeff Ottesen <jeff_ottesen@dot.state.ak.us>

Date: Thu, 05 Feb 2004 09:54:03 -0900

To: David Matsuno <dmatsuno@alaska.net>

CC: Eric Taylor <eric_taylor@dot.state.ak.us>, STIP@dot.state.ak.us, Roy <ugashik@alaska.net>, Fred <Matsuno.Fred@epamail.epa.gov>, Hattie <hattieutvenv@starband.net>, Felicity <evil_you_say@yahoo.com>, Jon Dunham <jon_dunham@dot.state.ak.us>, Mark A Obrien <mark_obrien@dot.state.ak.us>, Jack D Melton <jack_melton@dot.state.ak.us>, Jennifer E Wilson <jennifer_wilson@dot.state.ak.us>, John S Tolley <john_tolley@dot.state.ak.us>

David, just a bit more background on why tribes are not included in the regulation promulgated by US DOT. The national interest groups that forced the agency to adopt this national regulation were primarily local government advocates, who felt left out by their many different state DOTs. I heard stories of local governments not seeing or talking to their state DOT representative for years at a time. In fact many states are now adopting the practice of having someone assigned to talk to them on a routine and repetitive basis, something we've had formally set up in Alaska for nearly 20 years.

At a national conference held on the new federal requirement, the western states made it quite clear that the new regulation should not have left out the tribes. I believe it was clearly an oversight on the part of US DOT, and they heard this message loud and clear from western states.

Our normal and routine public involvement procedures, and our tribal government consultation policy is still clearly in place. Our new non-metropolitan consultation policy is meant to fulfill a federal mandate that we have, on paper, such a written policy. But it does not elevate local governments to some higher level of influence, nor mean that other interests are left out.

Please bear in mind this national regulation is attacking a problem experienced in many different states, with many different approaches to working with their interest groups. After listening to my counter parts in other states talk about what they do (or don't do) I came away with a clear impression that Alaska has a very good model for taking public input, far better than many other states. For example, many states have no formal method for project nomination not originating from state DOT staff. We do, and have done so for nearly 10 years.

One other difference. The new state policy for non-metropolitan governments addresses only the statewide transportation plan and STIP process. It does not speak to aviation, harbors, maintenance, contracting, hiring, transfers of responsibility or other matters we routinely must work through. On the other hand our tribal government policy potentially covers all these other topics. It also is much more extensive in terms of what is expected from each party.

I apologize if you felt we deliberately left out tribes in this draft of our policy. We are reacting to a very specific and limited federal regulation, and nothing more. We will still seek tribal input, and the input of many other interests not mentioned in the non-metro rule. I think the federal regulation a good idea, but poorly designed. But for now, we must have a state policy to ensure this box is checked when the feds come asking....

David Matsuno wrote:

Good morning, Mr. Taylor:

The Alaska Tribal Transportation Working Group (ATTWG) had a teleconference yesterday and some of the members had a concern that tribes weren't addressed in the draft Non-Metropolitan Local Consultation Policy. The perception was that we were being left out of the consultation process; and that is why I wanted

to share my opinion with you.

Thank you for your response and the information on ADOT&PF's department policy on government-to-government relations with federally-recognized tribes.

Sincerely,

David Matsuno

----- Original Message -----

From: [Eric Taylor](#)

To: [David Matsuno](#)

Cc: STIP@dot.state.ak.us ; [Roy](#) ; [Fred](#) ; [Hattie](#) ; [Felicity](#) ; [Jon Dunham](#) ; [Mark A Obrien](#) ; [Jack D Melton](#) ; [Jennifer E Wilson](#) ; [John S Tolley](#)

Sent: Wednesday, February 04, 2004 3:33 PM

Subject: Re: Non-Metropolitan Local Consultation Policy

Dear Mr Matsuno:

Thanks for your input.

DOT&PF consultation with federally-recognized tribes was addressed through the efforts of the State-tribal relations team as recently as 2002, and we have a [department policy on government-to-government relations with federally-recognized tribes](#) in place that I think answers your concerns. Mark O'Brien is the DOT&PF point of contact (907-465-6990) if you would like to know more.

The purpose of the non-metropolitan local consultation process (not policy) is to bring us into compliance with a federal rule that clearly sets forth a requirement for consultation with general purpose local government officials in our federally-funded transportation planning processes (specifically the Statewide Transportation Plan and the Surface Transportation Improvement Program). Specifically, it requires us to consult with officials in non-metropolitan areas, as we are already required to do with officials of metropolitan planning organizations (such as AMATS and FMATS). The distinction being made in this federal rule, and in our process, is not between non-metropolitan civil government and everyone else, but rather between two federally-defined categories (non-metropolitan and metropolitan) of civil government.

It is not our intent in this process to limit our public involvement, nor to limit our interaction with tribal government officials. As the process itself states, it is "**distinct from** DOT&PF's public involvement procedures (17 AAC 05), which provide for multiple means of input into the planning process and access to documents for all interested organizations, interest groups, and the public at large through appropriate public involvement methods."

In retrospect, we probably should have referenced our policy on government-to-government relations with federally-recognized tribes as well. We will adjust the final process text to do so.

Sincerely,

Eric Taylor

Division of Program Development

David Matsuno wrote:

Ugashik Traditional Village
206 E. Fireweed Lane, #204
Anchorage, AK 99503

February 4, 2004

State of Alaska
Division of Program Development
DOT&PF
3132 Channel Drive, Rm. 200
Juneau, AK 99801

Dear Sir/Ma'am:

I would like to comment on the draft Non-Metropolitan Local Consultation Policy under review by ADOT & PF. As a Federally Recognized Tribe, I would like to see consultations on a "Government to Government" basis. I think that language to that effect should be included in the policy. "Tribes" should be added so that the policy reads..."DOT&PF will use the following process for consultation with local officials and tribes in non-metropolitan areas:".

Furthermore, "tribes" should be added elsewhere in the policy: "in each organized city, borough, and tribe...", "local governments and tribes...", "each community and tribe...", etc. To exclude "tribes" in the consultation policy and process would not be beneficial to the State of Alaska, Alaska Tribes, and the Bureau of Indian Affairs.

Thank you for considering my opinion; as you review the draft Non-Metropolitan Local Consultation Policy.

Sincerely,
David Matsuno - Roads Planner

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Whatever is, is changing.
-Heraclitus

Whatever is, is.
-Parmenides